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EXAMINER	
NEURAUTER, GEORGE C	
ART UNIT	**PAPER NUMBER**
2143	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/497,383	BAHR ET AL.	
	Examiner	Art Unit	
	George C. Neurauter, Jr.	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16,18-27,29-33,35-53 and 55-75* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16, 18-27, 29-33, 35-53 and 55-75* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *09282005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-16, 18-27, 29-33, 35-53 and 55-75 are currently presented and have been examined.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 September 2005 has been entered.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 28 October 2005 was filed before the mailing date of a first Office Action on the merits. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

Applicant's arguments filed 28 October 2005 have been fully considered but they are not persuasive.

The Applicant continues to argue that "Quillix Data Sheet" is not prior art and the statement made on page 62 of the

response filed 7 May 2004 that "Since Quillix contains similar or the same functionality as the claimed invention..." does not constitute an admission of prior art.

MPEP 2129 states:

"A statement by an applicant during prosecution identifying the work of another as "prior art" is an admission that that work is available as prior art against the claims, regardless of whether the admitted prior art would otherwise qualify as prior art under the statutory categories of 35 U.S.C. 102. *Riverwood Int'l Corp. v. R.A. Jones & Co.*, 324 F.3d 1346, 1354, 66 USPQ2d 1331, 1337 (Fed Cir. 2003).

Since the "Quillix Data Sheet" document embodies the work of another, specifically the software program "Quillix", that the Applicant has admitted contains the same functionality as the claimed invention and has made of record the fact that another inventive entity made "Quillix" available to the general public on 18 January 2000, before the filing date of the instant application, any document that describes the functionality of the "Quillix" software program is available as prior art against the claims regardless of its applicability under any of the statutory categories of 35 USC 102. Therefore, the Applicant's arguments that the "Quillix Data Sheet" has a publication date after the date of filing of the instant application are moot.

The Examiner also cites as further evidence another press release corroborating the date of public knowledge of the "Quillix" software program by the general public on 18 January 2000 as admitted by the Applicant. As can be shown by the press release, "Quillix" embodies features such as "distributed capture system built for the Internet", "...provides a low-cost capture solution using TWAIN compliant scanners and XML based Internet forms and runs totally within the Web browser", "Off site insurance agents, for example, can scan claim forms and transmit that information to the main office, instantly, over the Web", "With Quillix just log-on, scan, and release the information to the appropriate document or data management system" which are shown within the "Quillix Data Sheet" that, as has been shown by the Examiner, embodies the claimed invention.

Response to Amendment

The affidavits filed on 21 July 2005 and 22 September 2005 under 37 CFR 1.131 have been considered but are ineffective to overcome the "Quillix Data Sheet" reference and the Examiner's Official Notice. The Applicant has clearly admitted on the record that subject matter relied on in the references is prior art. In this case, that subject matter may be used as a basis for rejecting his or her claims and may not be overcome by an affidavit or declaration under 37 CFR 1.131. See *In re Hellsund*,

474 F.2d 1307, 177 USPQ 170 (CCPA 1973); *In re Garfinkel*, 437 F.2d 1000, 168 USPQ 659 (CCPA 1971); *In re Blout*, 333 F.2d 928, 142 USPQ 173 (CCPA 1964); *In re Lopresti*, 333 F.2d 932, 142 USPQ 177 (CCPA 1964).

Claim Rejections

Claims 1, 3-16, 18-22, 24-27, 29-33, 35-53, 55-62, and 64-75 are rejected as being anticipated by Applicant's admitted prior art, specifically "Quillix Data Sheet" ("Quillix").

In the response filed 7 May 2004, the Applicant entered Exhibit 21 on pages 60-62 of the response, which was a press release entitled "Prevalent Software, Inc. Introduces Quillix" which was released and revealed to the public on 18 January 2000 at the Optika International Summit before the effective filing date of 3 February 2000 of the instant application. The Applicant stated on page 62 that "...Quillix appears to contain similar or the same functionality as the claimed invention." A statement by an applicant during prosecution identifying the work of another as "prior art" is an admission that that work is available as prior art against the claims, regardless of whether the admitted prior art would otherwise qualify as prior art under the statutory categories of 35 U.S.C. 102. *Riverwood Int'l Corp. v. R.A. Jones & Co.*, 324 F.3d 1346, 1354, 66 USPQ2d 1331,

1337 (Fed Cir. 2003). A rejection based on the Quillix invention is shown below.

Regarding claim 1, "Quillix" discloses a method comprising the step of a) generating a display based on a hypertext mark-up language (HTML) document stored in a client device using a web browser of a user interface of the client device (see figure on page 1), the display including a document display portion (see image of 'Purchase Order' in figure), an index field portion (see 'Batch name' in figure), and a control portion (see '-Rotate', 'Rotate+', etc. in figure; page 2, "Review tools allow users to...make adjustments using automated image processing...") all visibly defined in the display in separate portions thereof by the HTML document, the document display portion including a display of document data received from a scanner coupled to the client device, the scanner generating the document data by scanning a document in print form , the document data representing the scanned document (page 1, "Quillix acquires user input via...TWAIN input devices such as desktop scanners..."), the index field portion permitting index data to be input by a user with an input device of the client device into the user interface in association with the document data (see 'Batch name' in figure; page 1, "Information can be entered into a Quillix form can be used to create an independent

data record or be associated with a scanned image for indexing purposes"), and the control portion including at least one control element operable by the user with the input device for generating a start scan signal to initiate scanning of the document with the scanner to generate the document data (see 'Start Scanning' in figure) and for generating a send data signal to transmit the document data with the index data displayed by the web browser from the client device to the server over a network using a destination address for the server specified in an address field of the web browser (see 'Release batch' in figure; page 2, "Release", "The Quillix Web Client releases image batches to the server for final processing").

Regarding claim 3, "Quillix" discloses a method as claimed in claim 1, wherein the control portion includes at least one control element that can be activated by the user with the input device to adjust the scale of the display of the document data. (see 'Zoom+' and 'Zoom-' in figure; page 2, "Review tools allow users to...make adjustments using automated image processing...")

Regarding claim 4, "Quillix" discloses a method as claimed in claim 3, wherein the control element can be activated by the user with the input device to increase the scale of the display of the document data ("zoom in"). (see 'Zoom+' in figure; page

2, "Review tools allow users to...make adjustments using automated image processing...")

Regarding claim 5, "Quillix" discloses a method as claimed in claim 3, wherein the control element can be activated by the user with the input device to decrease the scale of the display of the document data ("zoom out"). (see 'Zoom-" in figure; page 2, "Review tools allow users to...make adjustments using automated image processing...")

Regarding claim 6, "Quillix" discloses a method as claimed in claim 3, wherein the control element can be activated by the user with the input device to scale the document data to fit within the document display portion of the display. (see 'FitHeight' in Figure; page 2, "Review tools allow users to...make adjustments using automated image processing...")

Regarding claim 7, "Quillix" discloses a method as claimed in claim 3, wherein the control element can be activated by the user with the input device to scale the document data for display in the document display portion to the same scale as the scanned document. (see 'FitWidth' in figure; page 2, "Review tools allow users to...make adjustments using automated image processing...")

Regarding claim 8, "Quillix" discloses a method as claimed in claim 3, wherein the control portion includes a control

element activated by the user with the input device to select document data from among a plurality of scanned documents for display on the document display portion of the display. (See '<<', '<', '>', and '>>' in figure; page 2, "Review tools allow users to view an image batch...")

Regarding claim 9, "Quillix" discloses a method comprising the steps of: a) generating at a client device a start scan signal using a control element defined by a hypertext mark-up language (HTML) document stored in the client device and displayed by a web browser of a user interface of the client device in response to a user's operation of an input device of the client device (see 'Start Scanning' in figure);

b) at the client device, converting the start scan signal into a form compatible with a scanner; c) at the client device, transmitting the converted start scan signal from the client device to the scanner; d) receiving the converted start scan signal at the scanner; and e) scanning a document with the scanner to generate document data, in response to the converted start scan signal received in said step (d). (page 2, "Capture begins with the acquisition of images via the Quillix TWAIN interface, which accepts input from low or high-volume scanners")

Regarding claim 10, "Quillix" discloses a method as claimed in claim 9, wherein said step (a) is performed by depressing and releasing a control element of the user interface of the client device using a mouse constituting at least part of the input device. (page 1, "The web client includes a lightweight image viewer and modules for data or image capture, review, indexing, and release of information...Since Quillix runs within a web browser, using Quillix is as easy as surfing the Internet")

Regarding claim 11, "Quillix" discloses a method as claimed in claim 9, further comprising the steps of: f) transmitting the document data from the scanner to the client device; g) receiving the document data at the client device; h) at the client device, converting the document data into a form that can be displayed within the web browser of the client device; and i) generating a display including the scanned document on the web browser of the client device, based on the document data converted in step (h). (page 2, "Capture begins with the acquisition of images via the Quillix TWAIN interface, which accepts input from low or high-volume scanners")

Regarding claim 12, "Quillix" discloses a method as claimed in claim 11, further comprising the step of: j) adjusting the display of the document data via a user's operation of a control element defined by the HTML document displayed by the web

browser within the user interface. (see '-Rotate', 'Rotate+', etc. in figure; page 2, "Review tools allow users to...make adjustments using automated image processing...")

Regarding claim 13, "Quillix" discloses a method as claimed in claim 12, wherein the adjusting of said step (j) includes increasing the scale of the display of the scanned document ("zooming in") on the user interface. (see 'Zoom+' in figure; page 2, "Review tools allow users to...make adjustments using automated image processing...")

Regarding claim 14, "Quillix" discloses a method as claimed in claim 12, wherein the adjusting of said step (j) includes decreasing the scale of the display of the scanned document ("zooming out") on the user interface. (see 'Zoom-" in figure; page 2, "Review tools allow users to...make adjustments using automated image processing...")

Regarding claim 15, "Quillix" discloses a method as claimed in claim 12, wherein the adjusting of said step (j) includes scaling the display of the scanned document to fit within the document display portion of the display of the user interface of the client device. (see 'FitHeight' in Figure; page 2, "Review tools allow users to...make adjustments using automated image processing...")

Regarding claim 16, "Quillix" discloses a method as claimed in claim 12, wherein the adjusting of said step (j) includes generating the display of the scanned document on the user interface of the client device with the same scale as the scanned document. (see 'FitWidth' in figure; page 2, "Review tools allow users to...make adjustments using automated image processing...")

Regarding claim 18, "Quillix" discloses a method as claimed in claim 12, further comprising the step of:

k) generating a multiscan mode signal via a user's operation of a control element defined within the web browser at the user interface of the client device, said steps (e)-(g) repeatedly performed to generate document data for a plurality of documents, based on the multimode scan signal. (see 'Start Scanning' and 'page 1 of 7' in figure; see also 'batch' as defined in the document; page 1, "Quillix forms are accessed and defined within the context of a Batch Profile." and page 2, "Capture begins with the acquisition of images via the TWAIN interface, which accepts input from low or high-volume scanners" and "Configurable batch profiles define how a batch is captured...")

Regarding claim 19, "Quillix" discloses a method as claimed in claim 18, further comprising the steps of

1) generating a selection signal via a user's operation of a control element defined within the web browser of the client device indicating at least one of the first, last, next and previous scanned documents for display; and m) displaying the document data for one of the scanned documents within the web browser of the client device, based on the selection signal generated in said step (l). (See '<<', '<', '>', and '>>' in figure; page 2, "Review tools allow users to view an image batch...")

Regarding claim 20, "Quillix" discloses a method as claimed in claim 12, further comprising the steps of: k) user inputting predetermined index data into an index field defined by the HTML document separately from a document display portion in which the document data from the scanner is displayed by the web browser of the user interface of the client device; (see 'Batch Name' in figure; page 2, "Quillix includes a tool for the creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

l) generating a send data signal using the control element operated by a user with the input device and defined by the HTML document displayed by the web browser of the user interface of the client device; m) transmitting the document data and index data from the client device to the server over an internetwork

in response to the send data signal generated in said step (l);

n) receiving the document data and index data at the server; and

o) storing the document data in association with the index data in a database of a data storage unit separate from the server. (see 'release batch' in figure; page 1, "Information entered into Quillix is processed by the Quillix server and then sent to the corporate system for further dispensation" and page 2, "The Quillix Web Client releases image batches to the server for final processing" and "Once released, the batched data is sent to the corporate information management system")

Regarding claim 21, "Quillix" discloses a method as claimed in claim 20, wherein the index data includes predetermined identification data to identify the document. (see 'Batch Name" in figure; page 2, "Quillix includes a tool for the creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

Regarding claim 22, "Quillix" discloses a method as claimed in claim 20, wherein the document data and the index data are transmitted between the server and client device in hypertext transfer protocol (HTTP). (page 1, "Quillix is the first distributed information capture system built for the Internet")

Regarding claim 24, "Quillix" discloses a method as claimed in claim 20, wherein the start scan signal is input by a user

with the input device via a first control element displayed within the web browser of the user interface for a first scan mode in the performance of said step (a) and the send data signal is input by a user with the input device via a second control element displayed within the web browser of the user interface in the performance of said step (m). (see 'Start Scanning' and 'release batch'; page 2, "Release", "The Quillix Web Client releases image batches to the server for final processing")

Claim 25 is rejected since claim 25 contains the same limitations as recited in claim 9.

Regarding claim 26, "Quillix" discloses a method as claimed in claim 9, further comprising the step of: f) transmitting the document data from the scanner to a server. (page 2, "Capture begins with the acquisition of images via the Quillix TWAIN interface, which accepts input from low or high-volume scanners")

Claim 27 is rejected since claim 27 contains the same limitations as recited in claims 9, 11, and 20 in combination.

Claims 29-33 are rejected since these claims contain substantially the same limitations as recited in claims 3-7 respectively.

Claims 35 and 36 is also rejected since claim 35 recites substantially the same limitations as recited in claim 18 and 19 respectively.

Claims 37-40 are rejected since these claims contain substantially the same limitations as recited in claims 21-24 respectively.

Claims 41-49 are rejected since these claims contain substantially the same limitations as recited in claims 1-8 and 20 respectively.

Claim 50 is rejected since claim 50 contains substantially the same limitations as recited in claims 1 and 20 in combination.

Regarding claim 51, "Quillix" discloses a system as claimed in claim 50, wherein the network includes an internetwork. (page 1, "Quillix is the first distributed information capture system built for the Internet")

Regarding claim 52, "Quillix" discloses a system as claimed in claim 50, wherein the client device includes a personal computer. (page 2, "System Requirements: Quillix Web Client")

Regarding claim 53, "Quillix" discloses a system as claimed in claim 50, wherein the user interface includes a web browser in which the document data is displayed. (page 1, "Quillix runs within the Web browser...")

Claim 55 is rejected since claim 55 contains substantially the same limitations as recited in claims 1 and 20 in combination.

Claim 56 is rejected since claim 56 contains substantially the same limitation as recited in claim 51.

Claim 57 is rejected since claim 57 contains substantially the same limitations as recited in claims 1 and 20 in combination.

Claim 58 is rejected since claim 58 contains substantially the same limitations as recited in claim 11.

Claim 59 is rejected since claim 59 contains substantially the same limitations as recited in claim 20.

Regarding claim 60, "Quillix" discloses a method as claimed in claim 1 further comprising:

b) inputting index data identifying the document data into the index field portion. (see 'Batch Name' in figure; page 2, "Quillix includes a tool for the creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

Regarding claim 61, "Quillix" discloses a method as claimed in claim 60 wherein the index data input in said step (b) comprises a document name identifying the scanned document. (see 'Batch Name' in figure; page 2, "Quillix includes a tool for the

creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

Regarding claim 62, "Quillix" discloses a method as claimed in claim 60 wherein the index data input in said step (b) comprises an identification number identifying the scanned document. (see 'Batch Name' and 'PO237' in figure; page 2, "Quillix includes a tool for the creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

Regarding claim 64, "Quillix" discloses a method as claimed in claim 60 wherein the index data input in said step (b) comprises text explaining the nature of the scanned document. (see 'Batch Name' and 'PO237' in figure; page 2, "Quillix includes a tool for the creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

Regarding claim 65, "Quillix" discloses a method as claimed in claim 60 wherein the index data input in said step (b) identifies a matter to which the scanned document relates. (see 'Batch Name' and 'PO237' in figure; page 2, "Quillix includes a tool for the creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

Regarding claim 66, "Quillix" discloses a method as claimed in claim 60 wherein the index data input in said step (b) identifies a transaction to which the scanned document relates. (see 'Batch Name' and 'PO237' in figure; page 2, "Quillix includes a tool for the creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

Regarding claim 67, "Quillix" discloses a method as claimed in claim 60 further comprising the step of:

c) activating the control element by the user with the user interface to scan the document with a scanner to generate the document data. (see 'Start Scanning' in figure)

Regarding claim 68, "Quillix" discloses a method as claimed in claim 67 further comprising the step of:

d) activating the control element by the user to upload the document data representing the scanned document to a server over a network. (see 'release batch' in figure; page 1, "Information entered into Quillix is processed by the Quillix server and then sent to the corporate system for further dispensation" and page 2, "The Quillix Web Client releases image batches to the server for final processing" and "Once released, the batched data is sent to the corporate information management system")

Regarding claim 69, "Quillix" discloses a method as claimed in claim 27 wherein the index data input in said step (j) identifies the scanned document. (see 'Batch Name' and 'PO237' in figure; page 2, "Quillix includes a tool for the creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

Claims 70 and 71 are also rejected since claim 70 recites substantially the same limitations as recited in claim 61 and 62 respectively.

Regarding claim 73, "Quillix" discloses a method as claimed in claim 27 wherein the index data input in said step (j) comprises text explaining the nature of the scanned document. (see 'Batch Name' and 'Summit3' in figure; page 2, "Quillix includes a tool for the creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

Regarding claim 74, "Quillix" discloses a method as claimed in claim 27 wherein the index data input in said step (j) identifies a matter to which the scanned document relates. (see 'Batch Name' and 'PO237' in figure; page 2, "Quillix includes a tool for the creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

Regarding claim 75, "Quillix" discloses a method as claimed in claim 27 wherein the index data input in said step (j) identifies a transaction to which the scanned document relates. (see 'Batch Name' and 'PO237' in figure; page 2, "Quillix includes a tool for the creating of new indexing forms" and "Configurable batch profiles define...the indexing form and fields used to index the batch")

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2, 23, and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Quillix".

Regarding claim 2, "Quillix" discloses a method as claimed in claim 1.

"Quillix" does not expressly disclose wherein the control element is operable by the user with the input device to alternately generate the start scan signal and the send data signal with respective successive activations of the control element with the input device, however, "Quillix" does disclose wherein the start scan signal and the send data signal are generated by separate control elements (see 'Start Scanning' and

'release batch'; page 2, "Release", "The Quillix Web Client releases image batches to the server for final processing").

Examiner takes Official Notice (see MPEP § 2144.03) that a control element used to alternately generate the start scan signal and the send data signal with respective successive activations of the control element in a user interface was well known in the art at the time the invention was made as a user interface widget known as a "toggle button" and, therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of "Quillix" to use the "toggle button" as known by those of ordinary skill in the art.

Claim 23 is also rejected since claim 23 recites substantially the same limitations as claim 2.

Regarding claim 63, "Quillix" discloses a method as claimed in claim 60.

"Quillix" does not expressly disclose wherein the index data input in said step (b) comprises a file path indicating the subdirectory on the server at which the scanned document is to be stored.

However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The method of inputting index

data to identify the document data would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability. See *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the nonfunctional descriptive material with the claimed invention because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Conclusion

This is a continuation of applicant's earlier application. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is (571) 272-3918. The examiner can normally be reached on Monday through Friday from 9AM to 5:30PM Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcn

WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER